

§ 339.3

12 CFR Ch. III (1–1–16 Edition)

§ 339.3 Requirement to purchase flood insurance where available.

(a) *In general.* An FDIC-supervised institution shall not make, increase, extend, or renew any designated loan unless the building or mobile home and any personal property securing the loan is covered by flood insurance for the term of the loan. The amount of insurance must be at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property under the Act. Flood insurance coverage under the Act is limited to the building or mobile home and any personal property that secures a loan and not the land itself.

(b) *Table funded loans.* An FDIC-supervised institution that acquires a loan from a mortgage broker or other entity through table funding shall be considered to be making a loan for the purpose of this part.

§ 339.4 Exemptions.

The flood insurance requirement prescribed by § 339.3 does not apply with respect to:

(a) Any state-owned property covered under a policy of self-insurance satisfactory to the Administrator of FEMA, who publishes and periodically revises the list of states falling within this exemption;

(b) Property securing any loan with an original principal balance of \$5,000 or less and a repayment term of one year or less; or

(c) Any structure that is a part of any residential property but is detached from the primary residential structure of such property and does not serve as a residence. For purposes of this paragraph (c):

(1) “A structure that is a part of a residential property” is a structure used primarily for personal, family, or household purposes, and not used primarily for agricultural, commercial, industrial, or other business purposes;

(2) A structure is “detached” from the primary residential structure if it is not joined by any structural connection to that structure; and

(3) “Serve as a residence” shall be based upon the good faith determination of the FDIC-supervised institution

that the structure is intended for use or actually used as a residence, which generally includes sleeping, bathroom, or kitchen facilities.

§ 339.5 Escrow requirement.

(a) *In general*—(1) *Applicability.* Except as provided in paragraphs (a)(2) or (c) of this section, an FDIC-supervised institution, or a servicer acting on its behalf, shall require the escrow of all premiums and fees for any flood insurance required under § 339.3(a) for any designated loan secured by residential improved real estate or a mobile home that is made, increased, extended, or renewed on or after January 1, 2016, payable with the same frequency as payments on the designated loan are required to be made for the duration of the loan.

(2) *Exceptions.* Paragraph (a)(1) of this section does not apply if:

(i) The loan is an extension of credit primarily for business, commercial, or agricultural purposes;

(ii) The loan is in a subordinate position to a senior lien secured by the same residential improved real estate or mobile home for which the borrower has obtained flood insurance coverage that meets the requirements of § 339.3(a);

(iii) Flood insurance coverage for the residential improved real estate or mobile home is provided by a policy that:

(A) Meets the requirements of § 339.3(a);

(B) Is provided by a condominium association, cooperative, homeowners association, or other applicable group; and

(C) The premium for which is paid by the condominium association, cooperative, homeowners association, or other applicable group as a common expense;

(iv) The loan is a home equity line of credit;

(v) The loan is a nonperforming loan, which is a loan that is 90 or more days past due and remains nonperforming until it is permanently modified or until the entire amount past due, including principal, accrued interest, and penalty interest incurred as the result of past due status, is collected or otherwise discharged in full; or

(vi) The loan has a term of not longer than 12 months.